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T.L.S.

THE TIMES LITERARY SUPPLEMENT

FRIDAY • 12 SEPTEMBER 1990 • No. 4011 • 35p



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THE TIMES LITERARY SUPPLEMENT

SEPTEMBER 12, 1980

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Construing the Constitution

By J. R. Pole

JOHN HART ELY:
Democracy and Distrust:
A Theory of Judicial Review
268pp. Harvard University Press. £9.
0 674 19636 8

Alfred the Great said that he did not set down many of his own laws in writing because he could not know what would please those who came after him. Thomas Jefferson of Virginia had a similar inspiration when he expressed the opinion that no generation should bind its successors, setting the freedom of a generation at nineteen years. If these admirable precepts had been put into modern practice they would have averted a great deal of legal and constitutional commentary. But they could hardly have averted confusion, as Jefferson tacitly recognised during his two terms as President of the United States, when he did nothing to implement his own ideas. The Supreme Court has adapted judicial review as the most practical method of rendering the American Constitution acceptable to successive generations; and judicial review has thus adapted a Constitution set down in writing to the needs of those who came after. On these grounds Alfred's moral insight may be said to have served the cause of Anglo-Saxon jurisprudence.

When the Americans adopted the Constitution in place of the Articles of Confederation, they established a new government on a new principle. Here for the first time was a federal republic, based on representative principles, under the rule of law, with separate legislative and executive departments but under a federal judiciary. The Constitution was 'the supreme law of the land', from which it appeared to follow that if either Congress or the executive passed any law incompatible with it, the federal courts would have the duty of adjudging that law unconstitutional and therefore void. It has always been reasonably clear that the laws of the separate states must be held subordinate to the Constitution. The case with regard to Congress has been more questionable, because the legislature should be presumed to act in ways that consciously conform to the Constitution, and there is nothing in the text that confers superior powers

on the judiciary. On this distinction Mr Justice Holmes is often quoted: 'I do not think the United States would come to an end if we [the Supreme Court] lost our power to declare an Act of Congress void. I do think the Union would be imperilled if we could not make that declaration as to the laws of the several states.'

There remain, however, convincing reasons for entrusting a power of review to the courts, as explained by Hamilton with a view to allaying fears of legislative supremacy in *The Federalist* No. 78. This practice, however, makes the Supreme Court the sole judge of its own powers, and these powers have often been used to express controversial opinions about the true meaning of the text. There is a strong tradition by which the Court has considered itself obliged or entitled to 'find' in the Constitution the values which its majority of the moment considers to be either compatible with American tradition, commanded by prevailing consensus, or required by natural law. As Archibald Cox has observed, natural law has been used as a means of validating the concept of 'substantive due process'—a procedure which he considers to be 'unwise as well as hopeless to resist'.

John Hart Ely of the Harvard Law School begins by making a distinction between 'interpretivism' and 'noninterpretivism', expressions attributed to today's Supreme Court. Today's terminology could clearly be improved; intellectual clarity itself can be a victim of hideous language. But we may follow him in the distinction: interpretivism means that judges should stick to the plain language of the Constitution for the norms they enforce; 'noninterpretivism' insists that they should when necessary reach beyond the language of the document to discover moral norms appropriate to the social needs of the time—a problem presented by the changes in both moral norms and social conditions. Professor Ely rejects the term 'strict construction' because it has recently been abused to mean more political conservatism. He then shows that strict or 'class-bound' interpretivism becomes impossible. Even such a phrase as 'natural-born citizen of

the United States' could mean quite different things; some degree of thought about the meaning of the words is bound to arise. But where that thought comes from and what it takes for authority makes a world of difference. The core of Ely's argument is that, where interpretation is required, it should be consistent with the aims of the Constitution as implied by its structure and on which it therefore depends for effective operation. To do this it is not necessary to draw on values which are inherently subjective, diverse or fluctuating.

This leads to his next step, an attack on the doctrine of 'noninterpretivism', which he quickly exposes as a vehicle for selective values. Arguing that the Constitution is a living document, he looks for a character which highlights its undemocratic nature: it is hard to square with the theory of our government the proposition that yesterday's majority, assuming it was a majority, should control today's. The Constitution, he is true, was devised in part to check temporary majorities, but that is no answer because the possibility of change was allowed for when the Constitution was framed. The provisions for which we are seeking a source were phrased in open-ended terms. 'Perhaps more important, tradition is infinitely adaptable by various and conflicting means. Segregation was until recently an authentic American tradition, as Southern whites proclaimed in its defence. The fact is that tradition can mean anything the judges say it means.'

Consensus is the next to go. Here Ely makes a devastating point on the death penalty, which Justices Marshall and Brennan declared to be no longer constitutional because it conflicted with modern community values. The result was an immediate rush by state legislatures to reinstate the death penalty under conditions which were intended to achieve alleged higher values of justice. The justices had in fact unwittingly closed the existence of a majority opinion which was the opposite of their own.

This brings Ely to a critique of Alexander Bickel, perhaps the most influential and surely the most admired constitutional thinker of our time. Bickel, he argues, made the primary mistake of starting out by looking for values which it was to be the particular role of the

judges to impart. But there is no good reason for believing that judges are especially suited to the role of moralists, still less that they are better placed than legislators. He finds Ronald Dworkin guilty of a similar error when he pleads for 'a fusion of constitutional law and moral theory'. Ely is highly sceptical of the judges' superior capacity for correct moral reasoning. 'The Constitution may follow the flag', he admits, in a remark that seems likely to be widely quoted, 'but it is really supposed to keep up with the New York Review of Books?'

Bickel's basic dilemma was to reconcile his liberal social philosophy with his conservative constitutional principles. This for Ely is a false problem because there is nothing inherently liberal about a constitutional principle that makes the processes of government under the Constitution the basic test of the rights to be exercised under it. And he points out that the last great wave of politically conservative views to have influenced the Supreme Court was the importation of highly doctrinaire nineteenth-century laissez-faire economics rather than genuinely strict construction. The main business of judicial review will thus be concerned with unstoppage blockages in procedural processes already implied by the Constitution, not with its search for values.

The last lap of Bickel's odyssey was his posthumously published attempt to achieve a reconciliation of conflict through a return to a kind of Burkean liberal tradition. Ely holds that this was a false path to take. The values that Bickel cherished were already there, if only he had been willing to trust the Constitution itself—and, of course, the American people. There are, in other words, certain principles inherent in the document in the concrete sense that when they are dimmed or obstructed the system cannot work logically according to its own terms of reference.

The supreme example of this is the system of representation. Ely makes reasonable allowance for a certain amount of ordinary mischief and even for some play in the system for special interests. But the principle he insists on is that all interests in its constituency. He develops this into a well formulated argument for what may be

called modern, or positive virtual representation. Ely ingeniously delves back to the case of *McCulloch v. Maryland* (1819), when Chief Justice Marshall saved the Bank of the United States from prohibitive taxation by a strict construction, to show that the majority could not constitutionally use taxation as a weapon against a specific minority interest by passing legislation that did not bear equally on the majority. This was a case in which the Court played precisely the constitutional role that Ely assigns to it. And there is a continuity of principle, if not a direct line of connection, to the protection of 'discrete and insular minorities' as marked out by Mr Justice Stone in his famous footnote 4 to *Carolee Products* in 1938.

Ely's theory requires that American republican government should be based on majoritarian democracy. The difficulty here is that republican theory has accommodated the interests of minorities as objects of representation especially in its formative years. It is, however, helpfully true to say that the majority principle became overwhelmingly the dominant principle in the setting up of state and federal governments—a result more of political power than of triumphant theory. But the republican principles which are basic to the Constitution are not, historically speaking, coterminous with those of democracy. History has helped to resolve the difficulty by bringing about a convergence between republican theory and democratic practice. But a critical history of the Constitution could hardly be written from the normative standpoint of modern democratic theory.

Ely, however, faces this problem from two points of strength. First the Constitution needs to be constructed in ways that are internally consistent; and following this, the great strength of the one-person, one-vote system is precisely that, as equivalent all forms of weighted votes, it is the simplest system in principle as well as the easiest in implementation. This destroys the objection that the *substantive* standard could be devised for determining the legitimacy of cases of legislative opportunism.

Ely remarks in a footnote that he passed through a period of worrying about whether rights would be as well protected by his method as

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under a "value-oriented" system. This analogy aptly reflects the profound distrust of democracy which developed in American liberal circles as a result of authoritarian regimes abroad and McCarthyism at home. Ely does not for a moment suggest that the Constitution is all machinery and no rights. The much-neglected Ninth Amendment ("The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people") recognizes the existence of "other" rights which enjoy constitutional protection and thus become constitutional rights. The mechanics of the Constitution should then be construed as intended to sustain certain values. The Privileges and Immunities Clause of the Fourteenth Amendment offers an important source from later history. "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." In a definition of the clause, the Bill of Rights, which therefore applied to the states as well as to Congress. The First Amendment is no less fundamental: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press..." No Jew? Hugo Black liked to emphasize the words. But distinctions have been made, and in the famous case of *Schenck v. United States* (1919) Mr. Justice Holmes enunciated the doctrine of "clear and present danger." (A phrase which, as Paul Freund has pointed out, is not to be spoken as one word). According to "one approach, most types of speech, most messages," are protected by the Amendment, but exceptions which threaten the system itself are presumably not. An alternative approach—that of the Court in *Schenck*—is actually to define rights by virtue of circumstances: "But the character of every act depends on the circumstances in which it is done." This is true. But the most severe tests of the doctrine show how dangerously it restricts the freedom of the individual, especially in periods of excitement and when the "specific threat" has been wrongly identified.

In any case the degree of "protection" appears on the character of the "specific threat," so the distinction between the two approaches may have been overdrawn. Ely himself proposes in *Justice* that the "strict" review be reserved for issues where free expression is at issue. We may well agree with this, without knowing much more about how it will help to resolve hard cases—which, as Dworkin has shown, are not to be treated as though they were governed by different rules from ordinary cases.

These and other issues suffice to show that the rights which the courts should be concerned with are those found in the Constitution. The Supreme Court was overstepping these limits in 1973 when it decided *Roe v. Wade*. It not only invaded the province of the states but went on to announce its own law, based on the development of the fetus. Legislative policies are the province of voters and legislators. But where does this leave the rights of threatened minorities? For as Ely says, "It makes no sense to employ the value judgments of the majority as the vehicle for protecting minorities from the value judgments of the majority."

The answer has already begun to appear. The essential point is to protect minorities in the process

of representation itself. And it is emphatically for the courts to ensure that this equal status is fully protected, along with the equally important right to participate freely and to receive and disseminate information. Equal protection and the privileges and immunities of citizens are properly administered, and we ensure these rights. There is no need and no justification for looking beyond the Constitution to natural rights or the current consensus—which in fact may be a source of oppression.

Ely is willing to test against hard cases such as that of *Alton Barker* versus the University of California, though he does not here develop his argument. Briefly, there is nothing to prevent minorities from imposing certain forms of discrimination against their own members. The interest of larger units of policy is open to the objection that it assumes that for legal purposes individuals are defined by group membership. But are not members of minorities themselves individuals? The answer which Ely's argument calls for appears to be that the present legacy of past discrimination makes this type of evidence relevant to an individual's constitutional identity. College admissions tutors have known this for longer than constitutional lawyers. But it is not a comfortable position to defend.

Whenever legislation produces discriminatory results, the legislators' motives are suspect, and seldom difficult to divine. Ely constructs a theory by which the unequal effects of apparently discriminatory legislation can be justified only if they fit tightly into the constitutionally acceptable frame. The objects of the legislation in question must moreover have some reasonable and socially acceptable substance. Otherwise, under the scrutiny of the Court using the ingenious doctrine of "suspect classifications," they will fail to pass the test of legitimacy.

All this supports a highly significant argument about the present of the Warren Court. So far from importing fashionable liberal doctrines into its reasoning, that Court can be seen, in the main, as having gone further than any of its predecessors to secure the very rights which are the subject of the Constitution and indispensable to legitimate and self-consistent administration. If Ely could bring himself to return to the constitutional language he has eschewed, he would have the satisfaction of concluding that Chief Justice Earl Warren was a great strict constructionist.

The Harvard University Press deserves to be rebuked over the production of this book, which is poorly made and has a very index. Professor Ely writes with an illogical, often over-the-top style which is often both apt and entertaining, though it may sound the test of time rather less well than (say) the prose of Alexander Bickel. What makes the book hard reading is the practice of packing together abstract nouns of the same conjunction with compound adjectives, e.g. "a judicial imposition of the representation-reinforcing orientation." It would have been better to have written out some of these statements in slightly greater length.

The achievement of this closely reasoned book is to restore to constitutional argument the validity of the original document as the principal source for the interpretation, not only of processes but of meanings or values. To do this, however, requires us to make choices among the values of the past, which Professor Ely has done. The subtleties of legal discourse should be of concern to those who are concerned with the cultural life of the nation, and the natural law theories perhaps by a touch of faith.



William Steig has for fifty years enriched The New Yorker with drawings and cartoons, varied in style and subject, but always comic in their perception, fluent and delicate in their execution. His depiction of children in "Sunlit Fry", first published in 1934, became a notable regular feature of the magazine. In a book of drawings, *The Lonely Ones* (1942), Steig moved away from his "realistic" cartoon style and attempted, with a more abstract, expressive line, to explore the psyche and the unconscious. A naked woman, with loose hair and breasts, hangs from a lampshade above the caption: "Public Opinion No. 1 (After the War, Steig and Grigson, 1942, from *The Lonely Ones*, p. 115). From which the line art on this page is taken, is a selection of his finest work from the past decade.

Devastating the Plains

By Hugh Brogan

DONALD WORSTER:
Dust Bowl
277 pp. Oxford University Press.
£10.50, 0 19 502550 4

Bad news, brethren. American agriculture—the beautiful, the miraculous—is about to come unstuck.

Donald Worster's book has many virtues. It is, for one thing, a lucid, succinct, intelligent and informative history of the Great Plains, from the formation in the Tertiary epoch, after the upthrusting of the Rocky Mountains, to their present status as the world's least fertile farms. It focuses on the greatest event and biggest disaster in the history of the Plains since the last Ice Age: the drought of the 1930s, which, due to the black blizzards, and to the Dust Bowl of the 1940s, and to the Dust Bowl of the 1950s, and to the Dust Bowl of the 1960s, and to the Dust Bowl of the 1970s, and to the Dust Bowl of the 1980s, and to the Dust Bowl of the 1990s, and to the Dust Bowl of the 2000s, and to the Dust Bowl of the 21st century, and to the Dust Bowl of the 22nd century, and to the Dust Bowl of the 23rd century, and to the Dust Bowl of the 24th century, and to the Dust Bowl of the 25th century, and to the Dust Bowl of the 26th century, and to the Dust Bowl of the 27th century, and to the Dust Bowl of the 28th century, and to the Dust Bowl of the 29th century, and to the Dust Bowl of the 30th century, and to the Dust Bowl of the 31st century, and to the Dust Bowl of the 32nd century, and to the Dust Bowl of the 33rd century, and to the Dust Bowl of the 34th century, 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Ancient mariners

By T. J. Binyon

NICHOLAS BONSARRAT:

Darken Ship
The Master Mariner, Book 2
181pp. Cassell, £4.95.
0 304 30707 6

In 1951 a former RNVR officer, then head of the new United Kingdom Information Office in Johannesburg, South Africa, he later wrote, "of eleven unread novels" brought out a twelfth: 200,000 words on the Battle of the Atlantic, as seen from the almighty and wildly pitching deck of the corvette HMS Compass Rose. The Cruel Sea was, of course, an instant and immense success. It now it seems to fall a long way short of being that classic picture of men in battle which the Second World War, unlike the First, has never really produced, it still — with the exception of an embroiling and gratuitous love affair — remains powerfully readable.

In his autobiography, *Life in a Four-Letter Word* (1966-70), Monsarrat describes with ralph his sudden elevation from insignificance to stardom, and also devotes a paragraph or two to the problem of how to follow a best-seller. "I did not want to be a best-seller," he writes. "I wanted to be a writer like C. S. Forester or even Conrad; Son of the Cruel Sea might have been wildly profitable, but it would also have been an ignominious exercise in cashing-in." Certainly the novels he produced after *The Cruel Sea* are very unlike it and are themselves, as far as subject matter goes, an extremely mixed bunch.

Morbid flappers

By William Boyd

DJUNA BARNES:

Selected Works of Djuna Barnes
Spitfire/The Antiphon/Nightwood
366pp. Faber and Faber, £5.50.
0 571 11397 9

"Djuna was tall, quite handsome, bold voiced and a remarkable talker, full of reminiscences of her Washington Square New York life and her eccentric childhood some where up the Hudson." So Janet Flanner — Paris correspondent of the *New Yorker* — between the wars — recalls Djuna Barnes in *Paris Was Yesterday*. It's not much, but it's about the most we ever get on the shadowy figure of the author of *Nightwood*, that acclaimed "black" inventory work of the 1930s. It is true that many of the autobiographies and memoirs of the Lost Generation make reference to her (largely of the "... new Djuna last night" variety), but there is very little more and the air of mystery is maintained. It is not, either, by this latest edition of her best-known work; there is no biographical sketch or critical introduction to *Nightwood*.

Monroe Wheeler, George Davis, Kay Boyle, Stephen Vincent Benet — not exactly names to compare with, but they, along with Djuna Barnes, were all members of that extraordinary gathering of talent in Paris in the 1920s and 1930s. And it is not unreasonable to speculate that Djuna Barnes's name would have about as much clout as that of any of these writers. Another critically successful writer of the time — had it not been for the fact that T. S. Eliot wrote an introduction to *Nightwood*, thereby ensuring her of the attention of the literary establishment — she would have been a footnote in the annals of that astonishingly fecund literary period.

That was in 1936, however, and Djuna Barnes had established herself before that as a playwright, author of short stories, and wit. Born in 1892 she came to New York City at the age of twenty to study art. She supported herself through odd jobs and achieved some success there with one-act plays and an illustrated book of poems. She was a member of the New York Village in the heyday of the bohemian, post-First World War bohemia. In the pre-war years

The Story of Esther Costello (1953) has a Helen Keller figure at its centre, but the girl's handicap is assumed, not real, and she is manipulated by criminals. The *White Road* (1956) and *The Richer than All His Tribe* (1958) are both set on an imaginary African island, Pharamaul; both are heavily tendentious, the first reflecting the Secreté Khanna affair and the Mau Mau emergency, the second the island's move to independence under a Nkrumah-like head of state. The *Nylon Pirates* (1960) is a run-of-the-mill criminal adventure; *The White Rajah* (1961) a run-of-the-mill historical novel. *The Pilow Fight* (1962) deals with the merited problems of a beat-selling novelist. This was followed by four slightly odd, almost parable-like tracts, collectively entitled *Signs of the Times*: *The Time Before This* (1962), *Smith and Jones* (1962), *A Fair Work* (1964), *Something to Hide* (1965). Finally, *The Knoll of Malra* tells the story of the island's siege during the war.

None of these enjoyed the success of *The Cruel Sea*, and none deserved it. They are all efficiently written, well put together, professional pieces of work, the two African novels the best; *The Nylon Pirates* and *The White Rajah* (mistakenly the worst), but nothing more. To reread them now is far more of a chore than a pleasure. But they do bring out their faults more clearly than their merits. That they are all by the same author despite their different subjects is made abundantly clear by the characteristics they share: the same slightly excessive lingering over details of violence, horror and atrocity; the same prejudices

(against homosexuals, reporters on popular newspapers, trade Shakespearean quotations; the same annoying tricks of style — at some point in every narrative the hero's hands are going to wander over a girl's "slim thighs").

Monsarrat's last novel was to be, he wrote, "the biggest volume ever written about the sea and about sailors; covering nearly four hundred years of maritime venture, from the Spanish Armada in 1588 to the completion of the St Lawrence Seaway — the furthest ferry (2,250 miles) ever made by ships in the heart of a continent — in 1958." It is divided into fifteen episodes, linked together by the presence in each of Matthew Lave, once Drake's cousin, who, after cowardice in battle, is condemned to wander the sea until he can finally redeem himself by an act of heroism.

The first volume of *The Master Mariner*, published in 1978, contains the first seven episodes (Lave with Drake, with Hudson, as pirate, with Pags, as fisherman, with Cook, with Nelson), which were all Monsarrat managed to complete before his death. This, the second volume, contains an almost finished episode — Lave as slave-trader — and synopses of the remaining seven for the *Shannon*, on a clipper, on an Arctic expedition, on a liner to India, in the First and Second World Wars, on a tanker in the St Lawrence Seaway).

Though here Monsarrat has finally returned to the theme of his first success, he has not, it must be said, managed to repeat it. *The Master Mariner* is not a novel but a series of vignettes of maritime history,

some more, others less impressive, according to the degree to which the characteristics of the other novels are present in them.

The most peculiar thing about the book, however, is that though the author has gone to the trouble of inventing a connecting device, he then makes no real use of it. Lave is no tragic figure, no Abnerus or Flying Dutchman; he accepts his fate without complaint, and indeed the author almost gives us the impression that this stolid seaman does not actually notice that he is living slightly longer than most. Nor does Monsarrat employ Lave in the way suggested by Kipling, whose *Nah* addresses the crew of a China clipper with the lines:

Your wheel is new and your pumps are strange,
But otherwise I perceive no change.
And in less than a week, if she did not ground,
I'd sail this looker the wide world round!

He not only makes no use of his immense experience to instruct others, but also appears to learn nothing from it himself: at the end of the eighth episode, which takes place in 1808, he is felled by crooks as easily as he would have been in 1588.

An immense labour, a great deal of loving research obviously went into *The Master Mariner*; the historical details are all there; anachronisms of language and setting have been carefully avoided. Yet no episode is really motivated by a living breath, ever escapes the artificiality of most historical fiction, and the *Cruel Sea* is still the only book one would read again.

Set authors

By L. D. Burnard

SALLY EMERSON:

Strand Sight
240pp. Michael Joseph, £6.50.
0 7181 1965 7

Jennifer's mum, Sarah, is no better than she should be. Her daughter, Emily, thinks to wear such a successful author and doesn't mind match. This is because she is a successful author and doesn't mind match. This is because she is a successful author and doesn't mind match.

With the aid of the friendly spiritualist gentleman at the square and her own psychic powers, Jennifer plans a grand display in which her private thirty six months of her mother's life will be made public. Her father, a dour and domineering man, is to defend time and deny death, but curiously little of this design is achieved. In the end, Jennifer is left with a sense of loss and a feeling that her mother's life was not as she had imagined it to be.

At this point the faithful husband, "his eyes bloodshot" gives up and lies down beside the man who is to defend time and deny death, but curiously little of this design is achieved. In the end, Jennifer is left with a sense of loss and a feeling that her mother's life was not as she had imagined it to be.

The murder itself is somewhat gratuitous as murders go — such a casual but little realized, however, serve as a means of introducing a pleasantly surprising and a greatly successful barrier and his oppressed wife, the Pumblebees, in his dialogue as well as caught on her nervous glee, laughing and chaotic house-holding.

The novel is set somewhere in fashionable Westminster, where taxis are taken as freely as wine and whisky and Chablis, low at dusk and dinner respectively. But more insistent than these details are those of the city itself: the tall, thin, of historic buildings, the dark and narrow streets, the swarms in public parks, the sense of a humanly swirling and swirling. Jennifer's glass of water with a saucer of milk like a cat's paw, much of the novel is seen through Jennifer's sharp gaze. It is a novel of observations of colour and costume (almost obsessively in case of costume) and of power and mood and emotion, particularly those of adolescence.

The novel charts the discord that ensues. Sarah, fighting to recover her health and her job, is impoverished in her struggle against materialism. The novel charts the discord that ensues. Sarah, fighting to recover her health and her job, is impoverished in her struggle against materialism.

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On conversion bait

By C. R. Boxer

GEORG SCHURHAMMER:

Francis Xavier
His Life, his Times,
Volume 3, Indonesia and India
1545-1549
Translated by M. Joseph Costello
726pp. Reame: Jesuit Historical
Institute, \$30.

This impressive and massive example of the "Life and Times" biographical approach, continues on its way like some irresistible juggernaut of the Afrika Korps. Volume 3 has the same strengths and drawbacks — it cannot call them weaknesses — as the two previous ones (reviewed in the TLS on April 19, 1974 and February 3, 1978). The "Life" is repeatedly submerged in the "Times". For example, we are given a blow-by-blow account of Dom João de Castro's successful raising of the siege of Diu in November 1546, when Xavier was thousands of miles away in the remote region of the Moluccas.

The continual missionary self-praise, though excusable in their public correspondence, which was deliberately "stained" to give an edifying view of their apostolic activities and to drum up support for the missions, also becomes rather tedious at times. It is likewise irritating to find that many of the missionaries were so frequently contemptuous of those whom they were trying to convert, or had recently converted. For instance, Nicolò Lanellotto, writing in December 1548 of the pupils in the College of the Holy Spirit at Goa, denigrated them as being "mixed" from ten nations, some more barbarous than the others, the most barbarous and uncivilized peoples in the world.

So much for Indians, Malays, Indonesians and Chinese, many of them certainly more civilized than contemporary Europeans. Peter Gay aptly observed in his classic work on the Enlightenment:

Multifarious monarch

By G. M. Wilson

CAROLLY ERICKSON:

Great Harry
A Life
426 pp. Dent, £8.50.
0 460 04566 8

"It is not easy to write that Prince's history, of whom no one thing may be constantly affirmed. . . . It is impossible to draw his picture without having seen him. . . . So wrote Lord Herbert of Chesham, the first biographer of Henry VIII. It is perhaps unfortunate that the truth of these remarks has so completely failed to stem the flood of unexposed, untested, barely credible, consequences in the lives of Jennifer and her parents. Suffice it to note the irony illustrated in the resolution of the novel: that the task fulfilled is no longer a success."

The murder itself is somewhat gratuitous as murders go — such a casual but little realized, however, serve as a means of introducing a pleasantly surprising and a greatly successful barrier and his oppressed wife, the Pumblebees, in his dialogue as well as caught on her nervous glee, laughing and chaotic house-holding.

"Even the most genial Christian had to regard his religion as absolutely true (and therefore all others as radically false) and hence as unwelcome to the world, or unregenerate enemies, or miserable souls in need of light." "Most genial" is hardly a term one would apply to those two uncommonly tough and hard-bitten Basques, Ignatius Loyola and Francis Xavier, who spearheaded the "Light Force" of the Church Militant in the Company of Jesus.

There was, admittedly, another side to this missionary insensitivity to the virtues of other faiths and other cultures. No physical dangers or discomforts daunted these dedicated men. . . . If they were inclined to be preoccupied in narrating their hardships. Moreover, Xavier's ministrations to the sick and dying poor in the streets of Cochabamba and the actual ministrations of Mother Teresa in the slums of Calcutta.

Driven by his burning missionary zeal, Xavier covered an astonishing amount of ground in an astonishingly short time. In the few years sponsored by this volume (September, 1545-April, 1549), he sailed from Malacca to the Moluccas, thence northward to the remote and inhospitable Moro and Morotai; then back via Malacca to Java in Ceylon; and so up the length of coasts of Western India; preaching, catechizing, and organizing, with a minimum of rest and no recreation. But the descendants of many of the converts he made held fast to the Roman Catholic faith when their Portuguese colonial masters were replaced by Protestant Dutch and English.

M. Joseph Costello's translation is fully up to the high standard he attained in the previous two volumes. The book is very well edited, printed, and produced. The clothing of Van Dyck portraits of Xavier in the Vatican, which is reproduced in the frontispiece, is certainly less lifelike than the rugged representation drawn by the Eurasian, Godinho de Eredia, in 1613, and first reproduced in the Belgian edition of his *Madness* (Brussels, 1881).

The Victorians and Ancient Greece
Richard Jenkyns
Philip Howard, *The Times*
... an important work of literary and cultural history.
Christopher Stace, *Only Telegraph*
... masterly. . . Robin Lane Fox, *Financial Times*
... highly remarkable. . . Nigel Dennis, *Sunday Telegraph*
... an excellent book, which ranges widely and never fails to entertain. Colin Heycraft, *The Observer*
398 pages, 8 plates, £15.00

Richard Jenkyns's personal story, but in fact she often strays from her unimpaired subject to sketch in details of the life, customs, religion, politics and recreations of early Tudor England. This practice, while essential and laudable in introduction, can be tiresome if carried to excess in what purports to be the story of one man, but the author largely avoids such problems by her considerable talent for historical narrative. The dust-jacket proudly proclaims "a new history of the Tudors, colour and detail" and it is quite true that she is never better than when re-creating historical scenes and events in vivid pen-pictures. However, to re-create the past accurately by the use of "historical colour and detail" requires a very considerable knowledge of a formidable amount of highly specialized historical disciplines, and it is therefore very much to the present author's credit that she succeeds far more often than she fails. But, because she is determined to cover so much ground, problems inevitably occur.

However, the occasional confusion, misinterpretation and inaccuracy over detail will worry the specialist far more than the general reader. One can be sure, will find the book a colourful and readable account of the life and times of Henry VIII. It does not pretend to say anything new, but it tells the old story forcefully and well despite some rather striking omissions. The vindictive cruelty and waywardness of some periods, including the years between 1514 and 1520, and those crucial months between June 1528 and 1533. Ms Erickson certainly succeeds in recreating the atmosphere and especially the tensions of the period. Her account is in a biographical style, and she is hardly surprising that in the end she falls to penetrate the enigmatic character of the monarch who is reputed to have once said, "If I were God I would be thinking I would cast lightning." "If I were God I would be thinking I would cast lightning."

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The lost rectory garden

By Peter Scupham

Geoffrey Grigson:

History of Film

96 pp. Secker and Warburg. £4.50.

0 436 18841 4.

In Geoffrey Grigson's account of his early years, *The Crest on the Silver*, there is a chapter on his childhood—his great good place—in a Cornish Rectory and garden. The sufficiency of this world speaks to the child; its secrets and secrets, most particularly its laurels—"one of the first, natural excellences of which I was conscious". And in this landscape of love are the deaths of two brothers in the First World War, and the deserts of school, "deserts altogether unworried by love, but nor empty of pursuit and every stone and cactus of falsity and cruelty". The war ends, "leaving me still more a stranger in a contemptuous or indifferent humanity, thrown the more into the hot smell of St. John's. Work, the gleam of laurel leaves, the feeling of sand, and the mystery of arches, and the consolation of moving water."

For Walter de la Mare, in his magnificent discursive book on childhood *Early One Morning*, the key is not the laurel but the convolvulus, whose "cool dark heart-shaped leaves" waxen vase-like simplicity evoke in me a curious wonder and delight. Such landscapes are at the heart of life; they demand celebration. Such moments and memories, recaptured by the exercise of a passionate imagination, are central to the poetry of T.S. Eliot or Wordsworth.

The third thing—and this is where Grigson's strength lies—is to keep undimmed the freshness of this double vision of the natural world. Grigson's new collection, *History of Film*, is primarily a book written in the present tense, celebrating a world of new rather than old. It is then, "The child's directness of perception has not been forgotten; it has become prescriptive in shaping the adult's response to the world." The world is seen through a "youthful eye" with a "knowing and scintillant" and the oppressions of a "bearded man" is one of the few poems here which look back; it is in fact, introduced by a few lines in *The Crest on the Silver*. For the most part, no, it is a landscape of small epiphanies, poems which implicitly judge the quality of our own response to experience.

These poems are a little reminiscent of S.E. Hinde's pillow book: *Solitude*. Outlandishly splendid things, trivial things that become important. On the Occasional. History weighs lightly here, among Bolle-do-Nut flowers, the "plectic/Adder's conical dress", "Grass purpled by Judas flowers" and varied excursions:

How these clouds in the young sky
These ferns in this hedge are
These nettles are young,
And smell like sweet of a

In Grigson's subterranean Now, though, there is no sense of a cold kingdom removed from human feeling. Emotions glaze through the open textures of the poems; the best life here is one of gentleness: "Time oppresses, yet time also releases from oppression". Outside this foreign window, their defining France.

A silver line and a Paulownia tree:
against

Extent and lessening light these
slight shapes sign
At times that time does not exist.
Many of the poems centre on the French landscape which forms the theme of Grigson's book *Notes From An Old Country*, and there is a particular sensitivity to subtleties of light and atmosphere, as in "Crossing the Beauce by Silver Train, after the Harvest" and "The Veil": "A veil in air of the fall, of yellowing/Nut yet independent, not yet/Quite dead leaves."

This acute visual sense can work in materially effects, or in the crisp antitheses of "Washing her Hair in this Garden": "Green her shampoo container on that orange/ Foliage. And rectangles shadow and/ Slewed into blackness, diamondic/ The unforced clarity of Grigson's language, its ease of cadence, run be tightened into poems with rhythmic élan. "Flung Away and/ Crossed Swords on a Midland Man" recall the tone and style of James Reeves or early Graves.

Behind this precise and unadorned clarity lie ache and unease. When C. Lewis, in his autobiography *Surprised by Joy*, attempted

to chart the course set by his moments of illumination—the sudden vision as he stood by a flowering currant of his brother's boy biscuit-box garden, or the lichen of Autumn revealed by a Beatrix Potter illustration—he found that which is itself more desirable than any other satisfaction. Let him remember to a Christian conversion. This is not Grigson's way. Discomfort provokes in the lung, muttering lines of "The Park" and "Difficult Seniors", where "Light, sneaking in, will not/ Decline in green light of the lawn; only after the longest for rain. A smudge of damp, and heat, and the allude files again." There are poems of contemplation, small metaphysical ganglia like "Not in a Twinkling" and its more succinct re-working "No Explanation".

Suppose we cease worrying the intricate Nonsense of our late. Suppose we That is to be sick and low: that In the dull way demoted.

Though the formal rituals of the Church afford no secure hold—in

"The Templars' Church" she prizes the plant is seen as "Complacent of hope and rhythm for relief"—one of Grigson's best poems is "Concert, in the High Church", a kind of conjuration of "The Stranger", that physical enigma of experience beyond the edge of understanding:

The Stranger? Is not beast, not Is not angel and not—our unt

A sun-value? So you say. And Bach calls. A trumpet calls.

This stranger—not God, but not entirely man either—is that elusive guest at all our moments of joy present in the Rectory garden and the biscuit-box garden. He has in pictures, photographs, in our

Liabilities, in scattered minds To roam. But—called, roused. Never; never staying for long. When life speaks to us most clearly, of itself or of something other? Grigson remains ambivalent.

Back to "Plymouth Hoe" and the scent of nets against "that black, black brown". Our relationships of love bring us into Huber's

world of "I" and "Thou": we are forced, too, into these "self and dyad" where the relationship of "I" and "Thou" is a sacred garden, but there are those who must be excluded from that garden with a placid smile. In the series of critical poems which closes *History of Film*, Grigson shifts his door on a selection of "verses—reveling, squelch". "Creators of an orthodoxy". After all, their presence in the garden would turn it into a public park, and "The Stranger" would remove himself to a remote island. The satires are too brief and general to become a new *Dunciad*, however; thankfully, the sense of the book is a whole is that there is more substance in our loves than in our enemies. It is a collection of the graceful fur, and "Gutierrez" is a poem which may stand for love and end itself:

Knowing there is no going home. Yet striking this mottled, soot-streaked sky, the water shaped and polished

By the water shaped and polished strokes. Striking this stone.

Sacred songs and songs, perhaps, still available in the background of our best work.

If parts of *The Return* represent a slight triumph in the poet's achievement, she is back on her feet in *History of Film*, particularly in the title poem, as well as "John Milton and My Father's Festival" and the extraordinary "Prophetic Thompson's", its right-hipped vocation between piety and cynicism and rage contained by a most terse and economical language. The recent poems also seem to be among her best, with their stark, dark, medieval flavour. Mr. Bee's row of death seems luxuriantly productive; what is most impressive, though, is how well she succeeds in not writing the same poem over and over again. This is always a new poem in its surprise or shock or even, in "Telling Them", finally to raise a wry smile. Blackness to reverse the words of Pausanias—has been a relief to this poet.

It is difficult, however, to know where she could go from here. Perhaps a piece of brightly coloured, almost tangible line verse like "Spanish Balm" is the clue to how she might broaden her poetry that is as neat and harsh and tightly contained as the flow her work. Patrick Beer's book, which she could not afford to take the sort of risks from which the recent poems seem to have emerged, but perhaps there is no reason why she should.

These are moving, passionate, often disturbing poems, filled like Shelley's with light, air, and a longing for freedom. In some ways the most original feature of this collection is the homage the poet pays to her "foremothers": her sense of inheritance on the maternal side. The theme was present in the title poem of Kathleen Raine's 1977 collection *The Owl Portrait*—a sketch of her own mother, "Jessie Wilkie 1880-1973". Now it gives rise to tributes in a flower poetry as detailed and delicate as any Shakespeare put into the mouth of Ophelia or Perdita.

In other poems, an austere northern setting is used to convey a sense of Emily Brontë's "Gave me liberty!" Indeed there seems much in common between Kathleen Raine's vision of life and the earlier poet's. Perhaps Emily Brontë would have endorsed the sentiments of "Spheres":

But plenitude of natural space Is but an image of the imageless Plenitude of soul: Imagining is our only plumb.

Yet after reading the opening lines of "Spheres", with their Yeatsian overtones—"Invisible to one another Our souls are spheres, Plato said"—I found myself longing for an opposite affirmation: Tell her, on an opposite plain, Matter came to mind with its

There is a penetrating exploration of destructiveness in this collection. In the powerful poem "Medea", for instance, which echoes interestingly some earlier poems, "The Phoenix" and "The

The Korres Chair in Modern Greek and Byzantine History, Language and Literature was established in 1919 at King's College in the University of London and endowed by some well-to-do Greek businessmen. The first holder of the Chair was Arnold Toynbee, who was then a young but very learned Classical scholar. His lively intelligence and wide horizons gave promise of great academic achievements, and made the appointment an inspired and felicitous one. Shortly after taking up his post Toynbee travelled to the Near East in order to report for the *Moskietur Guardian* on the Greek-Turkish war which had erupted following the Greek landing at Smyrna in April 1919. As his wartime writings show, Toynbee's sentiments had been strongly and often. He was also a believer in the beneficence of national self-determination. This, together with his Classical education, made him sympathetic to the Greek cause—that of a people in whose ancient culture he was steeped, and which centuries had endured the Sultan's rule. When he reached the theatre war, Toynbee was shocked to find that in spite of their illustrious past and the oppression they had suffered, the Greeks could be as bloodthirsty, as pitiless, and as much given to atrocities as their enemies, supposedly barbaric oppressors. In his articles for the *Manchester Guardian*, and subsequently in what is perhaps the best book he wrote, *The Western Question in Greece and Turkey* (1922), Toynbee, to his great credit, gave a faithful account of what he saw and heard, in no way seeking to disguise, or palliate, or engage in special pleading.

His writings, however, engendered and scandalized those who had endowed the Korres Chair. They simply failed to understand how Toynbee could publish things which cast an unfavourable light on the country and people whose history and literature he was paid to teach. To their blunt, uncomplicated minds the cash nexus was perfectly clear: they had, had they not, paid for the Chair? How, then, could he have written as he did about Greeks? The detail of what happened after the publication of *The Western Question* is still not known; we do know, however, that Toynbee felt obliged, in spite of support by the University and the principles of King, Ernest Barker, to resign the Korres Chair in 1924.

In the annals of modern British universities such an episode is, fortunately, very rare. As Aristotle observed, philosophy (and, we might add, all academic activity) demands leisure, and only a wealthy society can afford to provide this leisure. But it has always been understood that the academic enterprise which wealth makes possible cannot flourish if those whose wealth sustains it—whether they are official or private patrons—insist on controlling what is taught and what is published. The institution universities, strewn in such large numbers across the globe, creatures of some Stalin, or Khrushchev, or Nasser, stand in relation to real universities as do the

dead to the living. Their mere existence is a dreadful illustration of the self-evident truth that the life of reason is autonomous or it is nothing.

This truth has seldom had to be recalled or spelt out in this country. For many centuries now there has been enough wealth here to support universities. This support has been channelled through endowments or other devices which interpose a barrier between the benefactor and the use of his bounty: the cash nexus is broken. These habits and attitudes which these arrangements have fostered have become second nature among academics: in their jealous and punctilious sense of independence, in their exclusive concern with the advancement and transmission of learning, our universities constitute the last genuine republics of the modern world.

There is, of course, no guarantee that they will survive. Destruction may be visited on them from outside, by a tyranny, whether domestic or foreign, or through extreme impoverishment. But it may also come from inside, through intellectual self-annihilation or a failure in stewardship. Though no country is immune from ever from tyranny or ruin, it cannot be said that at present the universities of the free world have to reckon with such bleak prospects. Western society is in fact now immeasurably richer than when Oxford or Paris or Bologna were on the way to becoming universities. And if tyranny is an ever-present specter, it has not, so far, laid its dead hand upon us. Why, then, does the offer of the Korres Chair come now to mind?

The reason lies in the actions of some universities, chiefly in the United States but also in this country, which through financial temptation and intellectual confusion have left themselves open in some measure to outside direction and control, and have behaved in a way utterly at variance with their character. Thus many United States universities have accepted money from official Arab sources to establish Chairs of Middle Eastern and Arabic Studies, and to employ Chairs in these subjects. This, in itself, would be nothing in object to, had it not been that these donations have strings attached to them obliging universities to allow their patron a say in appointments, to tailor subjects and manner of teaching to the political demands of these patrons. Since mediocrity calls to mediocrity, and scholarship is usually in inverse proportion to political commitment, one or two unwise appointments made at the behest of patrons or in order to flatter them are enough to make a desert of a department for, perhaps two, or, over three

generations. The ravages plain to see in the United States may also now be discerned in this country where some universities have accepted money from Middle Eastern states and are suspected to have conceded in return a say to the donors in the making of appointments, and perhaps also in other academic decisions.

But the matter is not simply one of a virtuous but poor nation succumbing to the lure of a rich and vulgar seducer. In spite of the enormous transfer of wealth which the Opex cartel has been allowed to exact we, and all the United States, are not yet, thank heaven, reduced to the condition of a Tchécoslovaquie, a Yemen, a dependent, in other words, on subventions and rations. The money is taken from a source of misjudgment, out of a failure to understand and foresee the consequences of the transaction—an intellectual failure, to be sure, but one which also goes with some poverty of spirit.

As the Korres Chair episode showed, the great risk in such gifts is politicization of the academic enterprise. The risk is infinitely greater when the donor is not a collector of private funds, good or evil. Furthermore, the states involved here are autocratic, at best accustomed to a society in which autonomous institutions simply do not exist, and at worst take their stand on totalitarian ideologies in which all activities are systematically politicized. Their financial resources, and their control over a commodity indispensable to modern societies, enable them to cast a long, dark shadow and to compel the free, prosperous and vivacious societies of the West to make obsequious to a spirit long known and feared—that gloomy and sinister, of Oriental despotism. The hullabaloo surrounding the television film *Death of a Princess* is a case in point.

Whether it was good of its kind or not is not the question here. Numbering films are made, good or bad or indifferent, in which producers and directors stoke their money and reputation on the public's favour. The responsibility, the rewards and penalties are recognized to be exclusively theirs. Now, then, when a government—and a government moroccover liberalism in its professions—brought to express public disapproval of a work for which it had no responsibility, and which the Courts have not ruled to be obscene or libellous? *Princess of the Desert*, of course, but what else may this not make the society in whose interest reason of state is thus invoked? We remember too that reason of state did not deem it necessary to peddle in this way even formidable potential enemies like Nazi Germany or the Soviet Union. If anything, they found disagreeable happened to be published.

But the question arises whether a readiness to make pecuniary or mercenary advantage govern academic or cultural activity is now reinforced by a widespread indifference or laissez-faire. If every idea, or mode of behaviour, has something to be said for it, they all become morally equivalent and

preferences merely arbitrary: de gustibus, etc.

What if Professor Blum chose to spy for the Soviet Union, the tolerant and liberal academic will be found saying, what has this to do with us? It takes all sorts to make a world: some choose to spy and others to grow roses. And, as the Press has recently reported, there were some 120 Fellows of the British Academy prepared to vote in favour of the proposition that the Academy should look the spy firmly in the face and pass on. Similarly and contrariwise if someone should claimantly assert—and such assertions are usually clement—that the university, whether it knows it or not, whether it desires it or not, is through and through ideological, that scholarship is simply the expression of (class or national) interest, shall we be so intolerant as categorically to say that this is no more than confounding and confounding confusion? Thus a few years ago a respectable university was tempted for a moment to entertain the complaint of a disappointed Arab candidate that his failure was due to the fact that one of the examiners was a Jew. If the candidate felt that this was the reason for his poor showing, should we not, as open-minded and liberal persons, make allowances for a point of view which was perhaps sincerely held?

An inverted world comes into existence where tolerance believes itself obliged, by its very nature, to make room for intolerance, and the academy to defer, out of scholarly scruple, to values indifferent, if not hostile, to scholarship. At any rate, whether the cause is greed, or fear, or this belief that all points of view are equivalent and equally worthy of respect, the light has been spreading and making an appearance sometimes in the most unexpected places: thus the organizers of an academic conference in one of the ancient univer-

sities invited an Israeli scholar—an authority on his subject—to take part, but felt compelled later, by who knows what pressures or threats, to cancel the conference for fear that the sensibilities of Arab participants might be offended. The latest episode of this kind has recently taken place at the University of Exeter. This university which, so the Press has recently reported, has received from the ruler of Dubai the gift of three quarters of a million pounds, established a few years ago a Gulf Studies Centre which organized this summer academic conference on Saudi Arabia. A graduate student in a British university working on the history of Saudi Arabia applied to attend, some months before the conference was due to open.

But when it transpired that this student was Jewish, and that this fact rendered his presence at the conference undesirable, it also transpired that eight Israeli academics had also applied to attend and their presence had been likewise vetoed on grounds of unacceptability. The veto on Israeli academics was not quite absolute, since it would apply to at least one fortunate Israeli who attended a conference at this Centre—one who, however, was known not to be in accord with his Government.

In the TLS of October 21, 1977, I had occasion to describe happenings, not entirely dissimilar, which greeted the inaugural symposium of the Greek Centre for Mediterranean and Arab Studies. I ended my article by saying that by way of excuse "the Greeks might plead, *Hodie vultu, cras tibi*". I went on to observe that they might be right: "Indeed," I wrote, "why speak of tomorrow? Are there not, even now, on both sides of the Atlantic, institutions of learning where this affrontment is entrenched and regnant?" The managers of the Greek Centre will feel gratified or such a signal vindication.

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Friedrich Beck und Manfred Unger

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like those in Ovid's *metamorphosis*,
but nature's aristocracy.
"We are all princes here":
and thus will never ask
for a log for king
and set up with a cork:
they must sing four nights and then
they've safely brought the springtime in
past, tardy drifts and up the trees
to a music that outdates
Ovid and Aristophanes.

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